

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
Plaintiff	:	
	:	
vs.	:	CRIMINAL NO. 1:CR-00-108-03
	:	CIVIL NO. 1:CV-05-0189
	:	
ALETA ESTELL TAYLOR,	:	
Defendant	:	

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

On January 28, 2005, Defendant, Aleta Taylor, filed a pro se motion under 28 U.S.C. § 2255 challenging her sentence as unconstitutional under a line of cases beginning with *Apprendi v. New Jersey*, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000), and culminating in *United States v. Booker*, ___ U.S. ___, 125 S.Ct. 738 (2005), on the basis that the court made certain findings, rather than the jury, that increased her sentence.

We do not have the jurisdiction to consider this 2255 motion. On October 29, 2003, Defendant filed a previous 2255 motion, which we denied on March 19, 2004. Before we can consider a second or successive 2255 motion, Defendant must first obtain the approval of the Third Circuit for us to do so. See 28 U.S.C. § 2255 ¶ 8 (citing 28 U.S.C. § 2244); see also Third Circuit Local Appellate Rule 22.5. Defendant cannot avoid this procedural

requirement by labeling her new 2255 motion a "supplement" to her first 2255 motion. That motion has already been disposed of.

Accordingly, this 11th day of February, 2005, it is ordered that:

1. Defendant's motion (doc. 105) under 28 U.S.C. § 2255 is dismissed as an improper attempt to file a second 2255 motion without the certification of the Third Circuit.

2. Dismissal is without prejudice to Defendant's right to seek such certification.

/s/William W. Caldwell
William W. Caldwell
United States District Judge